

# Notice of Allowability

Application No.

10/810,046

Examiner

Louanne C. Krawczewicz Myers

Applicant(s)

MISATO ET AL.

Art Unit

1661

## - The MAILING DATE of this communication appears on the cover sheet with the correspondence address-

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 7/18/05 and 7/19/05.
2. ☒ The allowed claim(s) is/~~are~~ the claim.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 7/19/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

*LK Myers*

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**Examiner's Amendment**

An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **Must** be submitted no later than the payment of the Issue Fee.

**Examiner's Amendment Authorized**

Authorization for this Examiner's Amendment was given in a telephone interview with Cynthia A. Bonner on September 22, 2005.

**Amendment to the Disclosure**

The application has been amended as follows:

- A. Page 1, line 4, "Sunbidesupa" has been deleted and --'Sunbidesupa'-- has been inserted in its place.
- B. Page 1, line 26, "Goldie" has been deleted and --Innbid-- has been inserted in its place.

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C. Page 2, lines 15, 17, 19, 20, 22, 24, 26, and 27, "Goldie" has been deleted and --  
Innbid-- has been inserted in its place.

D. Page 5, line 11, "apex" has been deleted and --base-- has been inserted in its  
place.

E. Page 6, line 4, "disk" has been deleted and --disc-- has been inserted in its place.

### **Reasons for Allowance**

The specification is as complete as is reasonably possible. In view of Applicant's statement on the amendment filed, July 19, 2005, with the instant U.S. Plant Patent application, the Colour Wave Collection catalog (IDS reference No. 6, filed 7/19/05) with an amended publication date of 2003 and Applicant's admission that the correct date is May 2003, (which is less than a year from the instant patent application's filing date, March 26, 2004), would not be enabling. Therefore a proper rejection under 35 USC 102(b) cannot be made.

**Future Correspondence**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louanne C. Krawczewicz Myers whose telephone number is (571) 272-0979. The examiner can normally be reached on Monday and Thursday from 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached on (571) 272-0811. The fax phone numbers for the group is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the patent electronic business center whose telephone number is (866)-217-9197 (toll free) or (703) 305-3028 or (703) 308-6845 or email requests to [ebc@uspto.gov](mailto:ebc@uspto.gov).

LKM



KENT BELL  
PRIMARY EXAMINER

